

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 252 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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PATEL HARAKHJIBHAI AMARSIBHAI

Versus

PATEL JAYRAMBHAI HANSRAJBHAI

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Appearance:

MR PK JANI for Petitioners

MR VC DESAI for Respondent No. 1

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CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 08/03/96

ORAL JUDGEMENT

1. Rule. Mr. V.C. Desai waives service of rule on behalf of respondent No.1. Presence of second respondent is not necessary and hence second respondent is ordered to be deleted. With the consent of the learned advocates appearing for the parties, the matter is finally heard today.

2. This civil revision application is directed against the judgment and order passed by the Court of

Civil Judge, Junior Division, Kadi, below Exhibit 17 in Regular Civil Suit No. 55 of 1995 dated 12th January, 1996 whereby application of the present petitioners to implead them as party defendants under Order 1 Rule 10 of the Code of Civil Procedure is rejected. The law on the subject as to whether the provisions of Order 1 Rule 10 of the Code of Civil Procedure could be invoked is now by this time well settled by the decision of the Apex Court in the case of RAZIA BEGUM v. SAHEBZADI ANWAR BEGAUM reported in AIR 1958 SC 886 and in the case of RAMESH HIRAND KUNDANAND v. MUNICIPAL CORPORATION OF GREATER BOMBAY reported in 1992 SC (2) 524 : JT 1992 (2) 116. From the facts pleaded by the applicants in their application prima face they have shown that they have interest in the land in question which is acquired by ONGC for oil exploration. In act, possession receipt is issued in their favour and therefore without entering into the question as to whether they are the necessary parties, in my opinion, they are at least proper parties and they are directed to impleaded as party defendants in the suit at their own costs. The order of the trial court is totally unsustainable and is hereby quashed and set aside. The petitioners are directed to be impleaded as party defendants in the suit by amending the cause title of the suit accordingly at their own costs.

3. Rule is made absolute to the aforesaid extent only. There shall be no order as to costs.

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